

CLARK HILL LLP
MYRIAH V. JAWORSKI
mjaworski@clarkhill.com
One America Plaza
600 West Broadway, Suite 500
San Diego, CA 92101
Telephone: (619) 557-0404
Facsimile: (619) 557-0460

Attorneys for Defendant Presidio Brands, Inc

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OATHER MCCLUNG, ABBY
LINEBERRY, TERRY MICHAEL
COOK and GREG DESSART,
individually and on behalf of all other
similarly situated,

Plaintiff,

v.

ADDSHOPPERS, INC., PRESIDIO
BRANDS, INC., PEET'S COFFEE,
INC., and JOHN DOE COMPANIES,

Defendant.

Case No. 3:23-cv-01996

**DECLARATION OF STEVE FOX IN
SUPPORT OF DEFENDANT
PRESIDIO BRANDS, INC.'S
MOTION TO DISMISS**

Judge: Vincent Chhabria

I, Steve Fox, declare as follows:

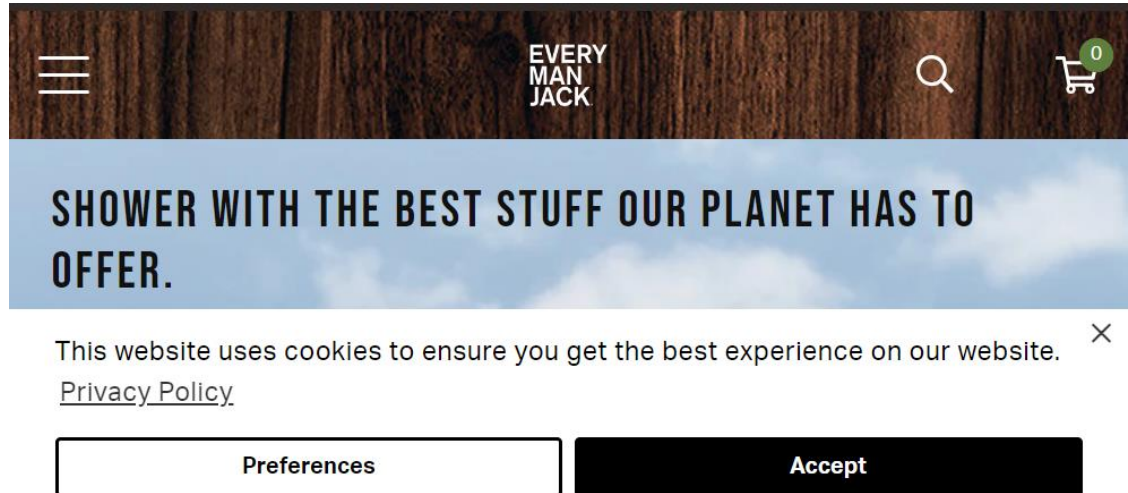
1. I am over 18 years old, of sound mind, and am duly authorized to make this Declaration on behalf of Presidio Brands, Inc.
2. I am the Chief Financial Officer of Presidio Brands, Inc.
3. Presidio Brands, Inc. owns and operates Every Man Jack, including its website everymanjack.com.

1 4. A true and accurate copy of Every Man Jack’s Privacy Policy as it
 2 existed on March 31, 2023 (the date Greg Dessart’s wife alleges she visited the
 3 website) is incorporated as Exhibit A.

4 5. Under the Privacy Policy, visitors agree that:

- 5 a. “By accessing or using this Website, you agree to this Privacy
 6 Policy. . . If you do not agree with our policies or practices, your
 7 choice is not to use our Website.” Privacy Policy at 1.
- 8 b. Every Man Jack “may use automatic data collection technologies
 9 to collect certain information about your equipment, browsing
 10 actions, and patterns,” including through cookies. Privacy Policy at
 11 4.
- 12 c. To allow “third party advertising partners to collect information
 13 about [their] use of the Website in order to serve targeted
 14 advertising and to measure the performance of our advertising
 15 campaigns” including through the use of tracking technologies,
 16 such as pixels, cookies, APIs and SDKs.” Privacy Policy at 5.
- 17 d. Every Man Jack does not “control any third parties’ tracking
 18 technologies or how they may be used” and that visitors should
 19 contact the third parties with “any questions about an
 20 advertisement or other targeted content.” Privacy Policy at 5.
- 21 e. They may “set [their] browser to refuse all or some browser
 22 cookies, or to alert you when cookies are being sent.” Privacy
 23 Policy at 6.
- 24 f. Every Man Jack does “not control third parties’ collection or use of
 25 [their] information to serve interest-based advertising.” However,
 26 they may contact third-parties to “choose not to have [their]
 27 information collected or used” Privacy Policy at 7.

6. As of March 31, 2023, Every Man Jack had a banner that appeared on the visitor's screen as soon as the visitor landed on the website, in the following form:



7. Every Man Jack conducted a diligent search of its records, but did not find any information related to Greg Dessert.

8. According to its search, and the information currently known to it, Every Man Jack did not collect and does not currently possess any information concerning Greg Dessart, including but not limited to his email address.

9. According to its search, and the information currently known to it, Every Man Jack did not collect and does not currently possess any personal identifying information for a Greg Dessart.

Executed on: June 20, 2023

/s/ Steve Fox

Steve Fox

Chief Financial Officer

Presidio Brands, Inc.

EXHIBIT A

Privacy Policy

Every Man Jack Privacy Policy

Last modified: 19 Dec 2022

Introduction

Presidio Brands, Inc. d/b/a Every Man Jack ("**Company**" or "**We**") respect your privacy and are committed to protecting it through our compliance with this policy.

This policy describes the types of information we may collect from you or that you may provide when you visit the website everymanjack.com (our "**Website**") and our practices for collecting, using, maintaining, protecting, and disclosing that information.

This policy applies to information we collect:

- On this Website.
- In email, text, and other electronic messages between you and this Website.

It does not apply to information collected by:

- Us offline or through any other means, including on any other website operated by Company or any third party; or
- Any third party, including through any application or content (including advertising) that may link to or be accessible from or on the Website.

Please read this policy carefully to understand our policies and practices regarding your information and how we will treat it. If you do not agree with our policies and practices, your choice is not to use our Website. By accessing or using this Website, you agree to this privacy policy. This policy may change from time to time (see Changes to Our Privacy Policy). Your continued use of this Website after we make changes is deemed to be acceptance of those changes, so please check the policy periodically for updates.

Children Under the Age of 18

Our Website is not intended for children under 18 years of age. No one under age 18 may provide any information to or on the Website. We do not knowingly collect personal information from children under 18. If you are under 18, do not use or provide any information on this Website or through any of its features, make any purchases through the Website, or provide any information about yourself to us, including your name, address, telephone number, email address, or any screen name or username may use. If we learn we have collected or received personal information from a child under 18 with

verification of parental consent, we will delete that information. If you believe we might have any information from or about a child under 18, please contact us at privacy@everymanjack.com.

California residents under 16 years of age may have additional rights regarding the collection and sale of their personal information. Please see Your [California Privacy Rights](#) for more information.

Information We Collect About You and How We Collect It

We collect several types of information from and about users of our Website, including information:

- Personal information, including (i) contact information, including your name, email address, and mailing address; (ii) authentication information, including the user name and password that you use to register an account on the Service; (iii) financial information for payment processing purposes; (iv) user content, including survey responses, comments, reviews, and suggestions; (v) personal characteristics including age range, date of birth, gender, marital status, and ethnicity; (vi) personal preferences including product preferences, online preferences, and interests; (vii) online behavior information including online activity, preferences, and time spent viewing features; and (viii) IP address or mobile network information ("**personal information**").
- About your internet connection, the equipment you use to access our Website, and usage details.

We collect this information:

- Directly from you when you provide it to us.
- Automatically as you navigate through the site. Information collected automatically may include usage details, IP addresses, and information collected through cookies, web beacons, and other tracking technologies.

In particular, we have collected the following categories of personal information from consumers within the last twelve (12) months:

Category	Examples	Collected
A. Identifiers.	A real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, or other similar identifiers.	YES
B. Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e)).	A name, physical characteristics or description, address, telephone number, education, employment, employment history, credit card number, debit card number, or any other financial information. Some personal information included in this category may overlap with other categories.	YES
C. Protected classification characteristics under California or federal law.	Age (40 years or older), ethnicity, marital status, gender, and veteran or military status.	YES

D. Commercial information.	Records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.	YES
E. Biometric information.	Genetic, physiological, behavioral, and biological characteristics, or activity patterns used to extract a template or other identifier or identifying information, such as, fingerprints, faceprints, and voiceprints, iris or retina scans, keystroke, gait, or other physical patterns, and sleep, health, or exercise data.	NO
F. Internet or other similar network activity.	Browsing history, search history, information on a consumer's interaction with a website, application, or advertisement.	YES
G. Geolocation data.	Physical location or movements.	YES
H. Sensory data.	Audio, electronic, visual, thermal, olfactory, or similar information.	NO
I. Professional or employment-related information.	Current or past job history or performance evaluations.	NO
J. Non-public education information (per the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g, 34 C.F.R. Part 99)).	Education records directly related to a student maintained by an educational institution or party acting on its behalf, such as grades, transcripts, class lists, student schedules, student identification codes, student financial information, or student disciplinary records.	NO
K. Inferences drawn from other personal information.	Profile reflecting a person's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.	YES

Information You Provide to Us

The information we collect on or through our Website may include:

- Information that you provide by filling in forms on our Website. This includes information provided at the time of making a purchase from our Website, setting up an account on our Website, subscribing to our service on our Website, posting a review on our Website, or requesting further services. We may also ask you for information when you report a problem with our Website.
- Records and copies of your correspondence (including email addresses), if you contact us.
- Your responses to surveys that we might ask you to complete for research purposes.
- Details of transactions you carry out through our Website and of the fulfillment of your orders. You may be required to provide financial information before placing an order through our Website.
- Your search queries on the Website.

You also may provide information to be published or displayed (hereinafter, "**posted**") on public areas of the Website, or transmitted to other users of the Website or third parties (collectively, "**User Contributions**"). Your User Contributions are posted on and transmitted to others at your own risk. We

cannot control the actions of other users of the Website with whom you may choose to share your User Contributions. Therefore, we cannot and do not guarantee that your User Contributions will not be viewed by unauthorized persons.

Information We Collect Through Automatic Data Collection Technologies

As you navigate through and interact with our Website, we may use automatic data collection technologies to collect certain information about your equipment, browsing actions, and patterns, including:

- Details of your visits to our Website, including traffic data, location data, logs and other communication data, and the resources that you access and use on the Website.
- Information about your computer and internet connection, including your IP address, operating system, and browser type.

The information we collect automatically is only statistical data and does not include personal information, but we may maintain it or associate it with personal information we collect in other ways or receive from third parties. It helps us to improve our Website and to deliver a better and more personalized service, including by enabling us to:

- Estimate our audience size and usage patterns.
- Store information about your preferences, allowing us to customize our Website according to your individual interests.
- Speed up your searches.
- Recognize you when you return to our Website.

The technologies we use for this automatic data collection may include:

- **Cookies (or browser cookies).** A cookie is a small file placed on the hard drive of your computer. You may refuse to accept browser cookies by activating the appropriate setting on your browser. However, if you select this setting you may be unable to access certain parts of our Website. Unless you have adjusted your browser setting so that it will refuse cookies, our system will issue cookies when you direct your browser to our Website.
- **Flash Cookies.** Certain features of our Website may use local stored objects (or Flash cookies) to collect and store information about your preferences and navigation to, from, and on our Website. Flash cookies are not managed by the same browser settings as are used for browser cookies. For information about managing your privacy and security settings for Flash cookies, see Choices About How We Use and Disclose Your Information.
- **Web Beacons.** Pages of our Website and our e-mails may contain small electronic files known as web beacons (also referred to as clear gifs, pixel tags, and single-pixel gifs) that permit the Company, for example, to count users who have visited those pages or opened an email and for other related website statistics (for example,

recording the popularity of certain website content and verifying system and server integrity).

Third-Party Use of Cookies and Other Tracking Technologies

We use third party advertising partners to collect information about your use of the Website in order to serve targeted advertising and to measure the performance of our advertising campaigns. The third party partners we use may collect this information using tracking technologies, such as pixels, cookies, APIs and SDKs.

In particular, we use the TikTok Pixel, provided by TikTok, for these purposes. The TikTok Pixel enables us to retarget you with products and services you have viewed on our Website on TikTok and to measure when you have clicked through to our Website after seeing one of our advertisements on TikTok. Information about how TikTok collects, uses and protects information collected using the TikTok Pixel is available in TikTok's user privacy policy.

We do not control any third parties' tracking technologies or how they may be used. If you have any questions about an advertisement or other targeted content, you should contact the responsible provider directly. For information about how you can opt out of receiving targeted advertising from many providers, see Choices About How We Use and Disclose Your Information.

How We Use Your Information

We use information that we collect about you or that you provide to us, including any personal information:

- To present our Website and its contents to you.
- To provide you with information, products, or services that you request from us.
- To fulfill any other purpose for which you provide it.
- To provide you with notices about your subscription, including expiration and renewal notices.
- To carry out our obligations and enforce our rights arising from any contracts entered into between you and us, including for billing and collection.
- To notify you about changes to our Website or any products or services we offer or provide though it.
- In any other way we may describe when you provide the information.
- For any other purpose with your consent.

We may also use your information to contact you about goods and services that may be of interest to you. If you do not want us to use your information in this way, please check the relevant box located on the form on which we collect your data (the order form) or adjust your user preferences in your account profile. For more information, see Choices About How We Use and Disclose Your Information.

We may use the information we have collected from you to enable us to display advertisements to our advertisers' target audiences. Even though we do not disclose your personal information for these purposes without your consent, if you click on or otherwise interact with an advertisement, the advertiser may assume that you meet its target criteria.

Disclosure of Your Information

We may disclose aggregated information about our users, and information that does not identify any individual, without restriction.

We may disclose personal information that we collect or you provide as described in this privacy policy:

- To contractors, service providers, and other third parties we use to support our business.
- To a buyer or other successor in the event of a merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of Every Man Jack's assets, whether as a going concern or as part of bankruptcy, liquidation, or similar proceeding, in which personal information held by Every Man Jack about our Website users is among the assets transferred.
- To fulfill the purpose for which you provide it.
- For any other purpose disclosed by us when you provide the information.
- With your consent.

We may also disclose your personal information:

- To comply with any court order, law, or legal process, including to respond to any government or regulatory request.
- To enforce or apply our terms of use and other agreements, including for billing and collection purposes.
- If we believe disclosure is necessary or appropriate to protect the rights, property, or safety of Every Man Jack, our customers, or others.

We do not sell personal information. In the preceding twelve (12) months, Company has not sold personal information.

Choices About How We Use and Disclose Your Information

We strive to provide you with choices regarding the personal information you provide to us. We have created mechanisms to provide you with the following control over your information:

- Tracking Technologies and Advertising. You can set your browser to refuse all or some browser cookies, or to alert you when cookies are being sent. If you disable or refuse cookies, please note that some parts of this site may then be inaccessible or not function properly.
- Promotional Offers from the Company. If you do not wish to have your email address used by the Company to promote our products or services, you can opt-out by checking the relevant box located on the form on which we collect your data (the order form or account registration form) or at any other time by logging into the Website and adjusting your user preferences in your account profile by checking or unchecking the relevant boxes. If we have sent you a promotional email, you may send us a return email asking to be omitted from future email distributions. This opt out does not apply to information provided to the Company as a result of a product purchase, warranty registration, product service experience or other transactions.

We do not control third parties' collection or use of your information to serve interest-based advertising. However these third parties may provide you with ways to choose not to have your information collected or used in this way. You can opt out of receiving targeted ads from members of the Network Advertising Initiative ("NAI") on the NAI's website.

California residents may have additional personal information rights and choices. Please see [Your [California Privacy Rights](#)] for more information.

Nevada residents who wish to exercise their sale opt-out rights under Nevada Revised Statutes Chapter 603A may submit a request to this designated address: privacy@everymanjack.com.

However, please know we do not currently sell data triggering that statute's opt-out requirements.

Accessing and Correcting Your Information

You can review and change your personal information by logging into the Website and visiting your account profile page.

You may also send us an email at privacy@everymanjack.com to request access to, correct or delete any personal information that you have provided to us. We cannot delete your personal information except by also deleting your user account. We may not accommodate a request to change information if we believe the change would violate any law or legal requirement or cause the information to be incorrect.

If you delete your User Contributions from the Website, copies of your User Contributions may remain viewable in cached and archived pages, or might have been copied or stored by other Website users. Proper access and use of information provided on the Website, including User Contributions, is governed by our [terms of use](#).

Your California Privacy Rights

The California Consumer Privacy Act ("**CCPA**") provides consumers (California residents) with specific rights regarding their personal information. This section describes your CCPA rights and explains how to exercise those rights.

California's "Shine the Light" law (Civil Code Section § 1798.83) permits users of our App that are California residents to request certain information regarding our disclosure of personal information to third parties for their direct marketing purposes. To make such a request, please send an email to privacy@everymanjack.com or write us at: Every Man Jack, 100 Shoreline Highway, Suite 200, Mill Valley, CA 94941.

Right to Know and Data Portability

You have the right to request that we disclose certain information to you about our collection and use of your personal information over the past 12 months (the "right to know"). Once we receive your request and confirm your identity (see Exercising Your Rights to Know or Delete), we will disclose to you:

- The categories of personal information we collected about you.
- The categories of sources for the personal information we collected about you.

- Our business or commercial purpose for collecting or selling that personal information.
- The categories of third parties with whom we share that personal information.
- If we sold or disclosed your personal information for a business purpose, two separate lists disclosing:
 - sales, identifying the personal information categories that each category of recipient purchased; and
 - disclosures for a business purpose, identifying the personal information categories that each category of recipient obtained.
- The specific pieces of personal information we collected about you (also called a data portability request).

Right to Delete

You have the right to request that we delete any of your personal information that we collected from you and retained, subject to certain exceptions (the "right to delete"). Once we receive your request and confirm your identity (see Exercising Your Rights to Know or Delete), we will review your request to see if an exception allowing us to retain the information applies. We may deny your deletion request if retaining the information is necessary for us or our service provider(s) to:

1. Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, fulfill the terms of a written warranty or product recall conducted in accordance with federal law, or otherwise perform our contract with you.
2. Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.
3. Debug products to identify and repair errors that impair existing intended functionality.
4. Exercise free speech, ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.
5. Comply with the California Electronic Communications Privacy Act (Cal. Penal Code § 1546 et. seq.).
6. Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information's deletion may likely render impossible or seriously impair the research's achievement, if you previously provided informed consent.
7. Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
8. Comply with a legal obligation.
9. Make other internal and lawful uses of that information that are compatible with the context in which you provided it.

We will delete or deidentify personal information not subject to one of these exceptions from our records and will direct our service providers to take similar action.

Exercising Your Rights to Know or Delete

To exercise your rights to know or delete described above, please submit a request by either:

- Calling us at 877.875.JACK
- Emailing us at privacy@everymanjack.com

Only you, or someone legally authorized to act on your behalf, may make a request to know or delete related to your personal information.

You may only submit a request to know twice within a 12-month period. Your request to know or delete must:

- Provide sufficient information that allows us to reasonably verify you are the person about whom we collected personal information or an authorized representative, which may include confirming recent purchases or online activity in the Website.
- Describe your request with sufficient detail that allows us to properly understand, evaluate, and respond to it.

We cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and confirm the personal information relates to you.

You do not need to create an account with us to submit a request to know or delete. However, we do consider requests made through your password protected account sufficiently verified when the request relates to personal information associated with that specific account.

We will only use personal information provided in the request to verify the requestor's identity or authority to make it.

For instructions on exercising your sale opt-out or opt-in rights, see Personal Information Sales Opt-Out and Opt-In Rights.

Response Timing and Format

We will confirm receipt of your request within ten (10) business days. If you do not receive confirmation within the 10-day timeframe, please privacy@everymanjack.com

We endeavor to substantively respond to a verifiable consumer request within forty-five (45) days of its receipt. If we require more time (up to another 45 days), we will inform you of the reason and extension period in writing.

If you have an account with us, we will deliver our written response to that account. If you do not have an account with us, we will deliver our written response by mail or electronically, at your option.

Any disclosures we provide will only cover the 12-month period preceding our receipt of your request. The response we provide will also explain the reasons we cannot comply with a request, if applicable. For data portability requests, we will select a format to provide your personal information that is readily useable and should allow you to transmit the information from one entity to another entity without hindrance.

We do not charge a fee to process or respond to your verifiable consumer request unless it is excessive, repetitive, or manifestly unfounded. If we determine that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

Personal Information Sales Opt-Out and Opt-In Rights

We do not sell any personal information.

Non-Discrimination

- We will not discriminate against you for exercising any of your CCPA rights. Unless permitted by the CCPA, we will not:
- Deny you goods or services.
- Charge you different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties.
- Provide you a different level or quality of goods or services.
- Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.

However, we may offer you certain financial incentives permitted by the CCPA that can result in different prices, rates, or quality levels. Any CCPA-permitted financial incentive we offer will reasonably relate to your personal information's value and contain written terms that describe the program's material aspects. Participation in a financial incentive program requires your prior opt-in consent, which you may revoke at any time.

Data Security

We have implemented measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration, and disclosure. All information you provide to us is stored on our secure servers behind firewalls. Any payment transactions will be encrypted.

The safety and security of your information also depends on you. Where we have given you (or where you have chosen) a password for access to certain parts of our Website, you are responsible for keeping this password confidential. We ask you not to share your password with anyone.

Unfortunately, the transmission of information via the internet is not completely secure. Although we do our best to protect your personal information, we cannot guarantee the security of your personal information transmitted to our Website. Any transmission of personal information is at your own risk. We are not responsible for circumvention of any privacy settings or security measures contained on the Website.

Changes to Our Privacy Policy

It is our policy to post any changes we make to our privacy policy on this page. If we make material changes to how we treat our users' personal information, we will notify you by email to the email address specified in your account and/or through a notice on the Website home page. The date the privacy policy was last revised is identified at the top of the page. You are responsible for ensuring we have an

up-to-date active and deliverable email address for you, and for periodically visiting our Website and this privacy policy to check for any changes.

Contact Information

To ask questions or comment about this privacy policy and our privacy practices, contact us at:

privacy@everymanjack.com

or via our toll-free number:

877.875.JACK

**Sign up for emails and
exclusive offers.**

Your email address

SIGN UP

We strive to use as many naturally derived and plant-based ingredients as possible, while still delivering exceptional performance.

CUSTOMER SERVICE

877-875-JACK

Customer Care

Live Chat

408-413-1578

PRODUCTS

SUPPORT

ABOUT US

© 2023 EVERY MAN JACK ALL RIGHTS RESERVED.

[PRIVACY POLICIES](#) [TERMS OF USE](#) [!\[\]\(34b4f260a8587d2e97eeaee361cc357b_img.jpg\)](#) [!\[\]\(b5f3742814ad7ea0f0989480e393a386_img.jpg\)](#)
[ACCESSIBILITY STATEMENT](#) ALL PRICES ARE IN
USD.